

REMARKS

Claims 1-18 are pending in the present application. Claims 1-18 are rejected under the judicially created doctrine of obviousness-type double patenting. Applicants respectfully request reconsideration of the application, withdrawal of all rejections, and allowance of the application in view of the amendments and remarks below.

The Invention

The present invention provides novel condensation drug aerosols and methods for producing such aerosols. These condensations aerosols have little or no pyrolysis degradation products. The unique method for generating or producing such aerosols employs rapid vaporization of the drug to minimize drug degradation during the process. These vaporized drugs are subsequently condensed to form particles of a desirable particle size for inhalation. These aerosols are especially useful in the treatment of acute or chronic conditions wherein rapid onset of treatment is desirable.

The Amendments to the Claims

Without prejudice to the Applicants' rights to present claims of equal scope in a timely filed continuing application, to expedite prosecution and issuance of the application, the Applicants have amended Claims 1-3 and 10-12 and cancelled Claims 4-9 and 13-18. The Applicants also have presented new Claims 19-42. The amended claims and the new claims are supported by the specification (see below for examples of such support).

Claim	Examples of Support in the Specification
Claim 1	Paragraphs 0006, 0008, 0015, 0017; Examples 2-3
Claim 2	Paragraph 0030
Claim 3	Paragraph 0030
Claim 10	Paragraphs 0006, 0008, 0015, 0017; Examples 2-3
Claim 11	Paragraph 0030
Claim 12	Paragraph 0030
Claim 19	Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)], 0015
Claim 20	Paragraph 0015
Claim 21	As recited above for Claim 19
Claim 22	Paragraph 0008
Claim 23	Paragraph 0008
Claim 24	Paragraph 0069
Claim 25- Claim 27	Paragraph 0006
Claim 28	Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)], 0015
Claim 29	Paragraph 0015
Claim 30	As recited above for Claim 28

Claim	Examples of Support in the Specification
Claim 31	Paragraph 0008
Claim 32	Paragraph 0008
Claim 33	Paragraph 0069
Claim 34- Claim 36	Paragraph 0006
Claim 37- Claim 39	Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)], 0006, 0008, 0015, 0017
Claim 40- Claim 42	Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)], 0006, 0008, 0015, 0017

The amendments to the claims do not introduce new matter. Applicants respectfully submit that the amendments to the claims put the case in condition for allowance. The Examiner is respectfully requested to enter the amendments to the claims and allow all amended claims.

Double Patenting

Claims 1-18 were rejected under the judicially created doctrine of obviousness-type double patent as being unpatentable over claims of U.S. Patent Nos. 6,855,310 B2 and 6,716,417 B2, as these claims are “either anticipated by, or would have been obvious over, the reference claims.” Office Action at 2-3.

Claims 1-9 were provisionally rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application Nos. 10/735,497, 10/735,199 and 10,718,982. *Id.* at 3-5.

Applicants have filed with this response Terminal Disclaimers with regard to U.S. Patent Nos. 6,855,310 B2 and 6,716,417 B2 and copending Application Nos. 10/735,497, 10/735,199 and 10,718,982. Applicants believe that this addresses the Examiner’s concerns and respectfully request reconsideration of the application, withdrawal of all rejections, and allowance of the application in view of these actions and remarks.

Conclusion

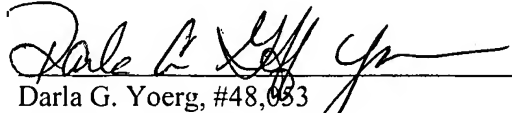
The Applicants appreciate the Examiner’s careful and thorough review of the application and submit that the Examiner’s concerns have been addressed by the amendments and remarks above. The Applicants accordingly request the Examiner to withdraw all rejections and allow the application. In the event the Examiner believes a telephonic discussion would expedite allowance or help to resolve outstanding issues, prosecution of the application, then the Examiner is invited to call the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned

hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

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